

Engines” ((RIN2120-AA64) (Docket No. FAA-2018-0590)) received during adjournment of the Senate in the Office of the President of the Senate on August 17, 2018; to the Committee on Commerce, Science, and Transportation.

EC-6321. A communication from the Management and Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled “Airworthiness Directives; The Boeing Company Airplanes” ((RIN2120-AA64) (Docket No. FAA-2018-0114)) received during adjournment of the Senate in the Office of the President of the Senate on August 17, 2018; to the Committee on Commerce, Science, and Transportation.

EC-6322. A communication from the Management and Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled “Airworthiness Directives; The Boeing Company Airplanes” ((RIN2120-AA64) (Docket No. FAA-2018-0073)) received during adjournment of the Senate in the Office of the President of the Senate on August 17, 2018; to the Committee on Commerce, Science, and Transportation.

EC-6323. A communication from the Management and Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled “Airworthiness Directives; Airbus Helicopters” ((RIN2120-AA64) (Docket No. FAA-2018-0091)) received during adjournment of the Senate in the Office of the President of the Senate on August 17, 2018; to the Committee on Commerce, Science, and Transportation.

EC-6324. A communication from the Management and Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled “Standard Instrument Approach Procedures; Miscellaneous Amendments (61)” ((RIN2120-AA65) received during adjournment of the Senate in the Office of the President of the Senate on August 17, 2018; to the Committee on Commerce, Science, and Transportation.

EC-6325. A communication from the Management and Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled “Standard Instrument Approach Procedures; Miscellaneous Amendments (77)” ((RIN2120-AA65) received during adjournment of the Senate in the Office of the President of the Senate on August 17, 2018; to the Committee on Commerce, Science, and Transportation.

EC-6326. A communication from the Management and Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled “Standard Instrument Approach Procedures; Miscellaneous Amendments (110)” ((RIN2120-AA65) received during adjournment of the Senate in the Office of the President of the Senate on August 17, 2018; to the Committee on Commerce, Science, and Transportation.

EC-6327. A communication from the Management and Program Analyst, Federal Aviation Administration, Department of

Transportation, transmitting, pursuant to law, the report of a rule entitled “Standard Instrument Approach Procedures; Miscellaneous Amendments (4)” ((RIN2120-AA65) received during adjournment of the Senate in the Office of the President of the Senate on August 17, 2018; to the Committee on Commerce, Science, and Transportation.

EC-6328. A communication from the Management and Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled “Amendment of Class E Airspace; Lyons, KS” ((RIN2120-AA66) (Docket No. FAA-2018-0139)) received during adjournment of the Senate in the Office of the President of the Senate on August 17, 2018; to the Committee on Commerce, Science, and Transportation.

EC-6329. A communication from the Management and Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled “Amendment of Class D Airspace; Erie, PA” ((RIN2120-AA66) (Docket No. FAA-2018-0679)) received during adjournment of the Senate in the Office of the President of the Senate on August 17, 2018; to the Committee on Commerce, Science, and Transportation.

EC-6330. A communication from the Management and Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled “Amendment of Class D and Class E Airspace; Kansas City, MO; and Revocation of Class E Airspace; Kansas City, MO” ((RIN2120-AA66) (Docket No. FAA-2017-1083)) received during adjournment of the Senate in the Office of the President of the Senate on August 17, 2018; to the Committee on Commerce, Science, and Transportation.

EC-6331. A communication from the Management and Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled “Amendment of Class D and Class E Airspace for the following Pennsylvania; Lancaster, PA, Reading, PA, and Williamsport, PA” ((RIN2120-AA66) (Docket No. FAA-2016-9377)) received during adjournment of the Senate in the Office of the President of the Senate on August 17, 2018; to the Committee on Commerce, Science, and Transportation.

EC-6332. A communication from the Management and Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled “Amendment of Class E Airspace; Ionia, MI” ((RIN2120-AA66) (Docket No. FAA-2018-0291)) received during adjournment of the Senate in the Office of the President of the Senate on August 17, 2018; to the Committee on Commerce, Science, and Transportation.

EC-6333. A communication from the Management and Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled “Amendment of Class D Airspace, Removal of Class E Airspace, and Establishment of Class E Airspace; Olive Branch, MS” ((RIN2120-AA66) (Docket No. FAA-2017-0866)) received during adjournment of the Senate in the Office of

the President of the Senate on August 17, 2018; to the Committee on Commerce, Science, and Transportation.

EC-6334. A communication from the Management and Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled “Amendment of Class E Airspace; Memphis, TN” ((RIN2120-AA66) (Docket No. FAA-2017-0754)) received during adjournment of the Senate in the Office of the President of the Senate on August 17, 2018; to the Committee on Commerce, Science, and Transportation.

EC-6335. A communication from the Management and Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled “Amendment and Establishment of Class E Airspace; Columbus, NE” ((RIN2120-AA66) (Docket No. FAA-2018-0137)) received during adjournment of the Senate in the Office of the President of the Senate on August 17, 2018; to the Committee on Commerce, Science, and Transportation.

EC-6336. A communication from the Management and Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled “Revocation of Class E Airspace; Clarendon, TX” ((RIN2120-AA66) (Docket No. FAA-2018-0310)) received during adjournment of the Senate in the Office of the President of the Senate on August 17, 2018; to the Committee on Commerce, Science, and Transportation.

EC-6337. A communication from the Management and Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled “Establishment of Restricted Areas R5602A and R5602B; Fort Sill, OK” ((RIN2120-AA66) (Docket No. FAA-2017-0144)) received during adjournment of the Senate in the Office of the President of the Senate on August 17, 2018; to the Committee on Commerce, Science, and Transportation.

EC-6338. A communication from the Management and Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled “Airworthiness Directives; Pacific Aerospace Limited Airplanes” ((RIN2120-AA64) (Docket No. FAA-2018-0286)) received during adjournment of the Senate in the Office of the President of the Senate on August 17, 2018; to the Committee on Commerce, Science, and Transportation.

#### PETITIONS AND MEMORIALS

The following petitions and memorials were laid before the Senate and were referred or ordered to lie on the table as indicated:

POM-288. A communication from the Legislative Assembly of the Commonwealth of Puerto Rico memorializing its intent to not adopt the recommendations made by the Financial Oversight Management Board (FOMB); to the Committee on Energy and Natural Resources.



## VIA REGULAR MAIL AND EMAIL

July 18, 2018

Mr. José Carrión III  
Chairman  
Financial Oversight and Management Board  
PO Box 192018  
San Juan, PR 00919-2018  
[comments@oversightboard.pr.gov](mailto:comments@oversightboard.pr.gov)

**RE: Non-adoption of the Financial Oversight and Management Board's Recommendation, under Section 205 of PROMESA, to enact a Labor Reform in the private sector**

Esteemed Mister Chairman:

On April 24<sup>th</sup>, 2018 – pursuant to Section 205(a) of the *Puerto Rico Oversight, Management, and Economic Stability Act* (PROMESA) – the Financial Oversight and Management Board (FOMB) sent a proposed bill to the Puerto Rico Legislative Assembly to enact a Labor Reform in the private sector. The proposed Labor Reform included, among other matters, the repeal of Act No. 80 of May 30<sup>th</sup>, 1976 (Act 80). The FOMB's proposed bill was filed by the Puerto Rico Senate as Senate Bill 919 and underwent the regular legislative process.

Sections 205(b)(1) and 205 (b)(3) of PROMESA state as follows:

(b) Response to recommendations by the territorial government

(1) in general

In the case of any recommendations submitted under subsection (a) that are within the authority of the territorial government to adopt, not later than 90 days after receiving the recommendations, the Governor or the Legislature (whichever has the authority to adopt the recommendation) shall submit a statement to the Oversight Board that provides notice as to whether the territorial government will adopt the recommendations.

[...]

(3) Explanations required for recommendations not adopted

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*The Capitol* PO Box 9023431 San Juan, Puerto Rico 00902-3431

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If the Governor or the Legislature (whichever is applicable) notifies the Oversight Board under paragraph (1) that the territorial government will not adopt any recommendation submitted under subsection (a) that the territorial government has authority to adopt, the Governor or the Legislature shall include in the statement explanations for the rejection of the recommendations, and the Governor or the Legislature shall submit such statement of explanations to the President and Congress.

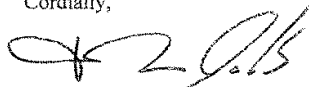
In compliance with the above-referenced sections of PROMESA, the Puerto Rico Legislative Assembly hereby notifies that it will not adopt the recommendations made by the FOMB because Senate Bill 919 was not approved as a result of the legislative process to consider the same. The following is a summary of the process followed to consider and reject the proposed bill submitted by the FOMB.

- On April 26th, 2018, the draft bill submitted by the FOMB on April 24<sup>th</sup>, 2018 was filed as Senate Bill 919.
- Senate Bill 919 was referred to the Senate's Economic, Political, and Labor Relations Commission (the Commission) that same April 26<sup>th</sup>, 2018.
- The Commission held public hearings on Senate Bill 919 on May 9<sup>th</sup>, 15, and 30<sup>th</sup>, 2018.
- An executive hearing to discuss Senate Bill 919 was held on July 11<sup>th</sup>, 2018.
- The Commission rendered a negative report on the bill on July 13<sup>th</sup>, 2018.
- Due to the Commission's negative recommendation, the bill was neither passed on to the Senate to be voted on, nor referred to the Puerto Rico House of Representatives.

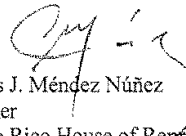
Enclosed is a copy of the negative report issued by the Commission. The report contains the result of the public hearings held on the matter; the analysis carried out by the Commission; and the basis for their recommendation not to enact the bill.

Based on the foregoing, we can inform that Senate Bill 919 was not approved by the Legislative Assembly after its consideration. Accordingly, the recommendations of the FOMB regarding the enactment of a Labor Reform in the private sector, including the repeal of Act No. 80, were not adopted.

Cordially,



Thomas Rivera Schatz  
President  
Puerto Rico Senate



Carlos J. Méndez Núñez  
Speaker  
Puerto Rico House of Representatives

## GOVERNMENT OF PUERTO RICO

18<sup>TH</sup> Legislative  
Assembly4<sup>th</sup> Ordinary  
Session

## SENATE OF PUERTO RICO

## S.B. 919

## Negative Report

Julio 13, 2018

## TO THE SENATE OF PUERTO RICO

Your Commission on Federal, Political, and Economic Relations after studying and considering Senate Bill 919, recommends to the Upper Chamber not passing said bill due to the grounds discussed below.

## SCOPE OF THE BILL

Senate Bill 919, a bill filed upon request of the Financial Oversight and Administration Board for Puerto Rico ("FOAB"), proposes establishing the "*Labor Reform Act of 2018*", in order to amend Article 2 of Act No. 180-1998, as amended; repealing Act No. 148 of June 30, 1969, as amended; repealing Article 5; amending part (a) of Article 6 and renumbering it as Article 5; renumbering Article 7 as Article 6; renumbering Article 8 as Article 7; renumbering Article 9 as Article 8; renumbering Article 10 as Article 9; renumbering Article 11 as Article 10; renumbering Article 12 as Article 11; renumbering Article 13 as Article 12 of Act No. 180-1998; repealing Act No. 80 of May 30, 1976, as amended; and for other related purposes.

The amendments proposed of Act 180-1998 can be summarized in the following manner: (i) establishing a minimum wage of \$7.50 for employees 25 years old or more unless the federal minimum wage is greater or does not apply; (ii) increases in minimum wage to \$7.75, \$8.00, and \$8.25 when the labor participation rate increases to 45%, 50%, and 55%, respectively; (iii) said increases would not apply to PyMES; (iv) an increase of 130 hours a months is done for employee to accrue sick and vacation leave benefits; (v) the minimum of days that can be accrued a year for said leaves is reduced to seven (7)

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days; and (vi) in the cases of employers with 12 employees or less, the minimum accrual for vacation leave will be  $\frac{1}{2}$  per month.

In turn, it proposes the repeal of Act No. 80, *supra*, to institute the concept of *at will employment* in Puerto Rico, thus eliminating, the unfair termination cause as an alternative available for an employee to go before the courts.

Likewise, the bill amends Act No. 115-1991, as amended, to reduce the term, from three (3) year to one (1) year, that an employee will available to file a civil claim against his employer due to said Act.

Last, the bill proposes repealing Act No. 148 of June 20, 1969, in order to eliminate the requirement to pay the Christmas Bonus.

To support the previously listed amendments, the preliminary recitals that contains the FOAB's bill states that, if the labor participation increases dramatically in Puerto Rico, the income of the workforce will increase, poverty levels will be reduced, and the fiscal situation will improve.

The FOAB adds, that in April 19, 2018, they certified a New Fiscal Plan for the Government of Puerto Rico, which will operate until fiscal year 2023 (the "New Fiscal Plan".) An essential part of the New Fiscal Plan is the passing of reforms related to our labor legislation, the establishing of a local *Earned Income Tax Credit* (EITC), and the creating of certain work and bonuses requirements for work for the participants of the Nutritional Assistance Program (NAP). Said Plan projects that the passing of reforms related to our labor legislation would generate a positive impact on the government collections of \$330 million during the period covered for said plan. Pursuant to the New Fiscal Plan, the increase in the projected collections is conditioned on the approval of these labor legislation reforms in or prior to May 31, 2018. According to the FOAB, establishing these reforms in our labor legislation will have an immediate impact on the economic growth, which will improve government finances and its capacity to assign said funds to essential health and education programs.

The FOAB believes that, when examining the impact of the *Transformation and Flexibility Act*, Act 4-2018, a little over a year of having passed said statute, the need to go deeper in structural measures can be seen, in order to liken our regulatory system more to the prevailing one in the continental states. Due to this, they believe that the time has arrived to acknowledge that the cumulative effect of decades of labor legislation that have distanced us significantly from the prevailing regulatory system in the continental states has deteriorated the competitiveness of Puerto Rico. Therefore, improving competitiveness and the capacity to attract and retain more and better jobs in Puerto Rico is a need that cannot postponed.

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From the alleged analysis performed by the FOAB, and as detailed in the preliminary recitals of S.B. 919, there is a reasonable basis to conclude that the obligatory imposition of marginal benefits, without taking into consideration the productivity of the employee or the situation of the company who pays the benefit, has the effect of depressing wages paid to the workers; reducing the recruitment of personnel, and it negatively impacts the employment rates of countries. Thus, by making more flexible the economic burden of said marginal benefits it makes viable an increase in the compensation of the worker, increases production and it allows granting benefits that are adjusted to the specific circumstances of each company. They conclude that keeping Act No. 80, *supra*, in effect will continue perpetuating a Puerto Rico as a jurisdiction that is less attractive, will restrict the employers in aspects that are very important for the management of the company and will continue reducing job opportunities.

However, from the analysis of the documentation and the evidence provided by the FOAB, which is not based on empirical evidence, it can be seen that the repeal of Act No. 80, *supra*, and the adoption of the regulatory system proposed, does not support that it will result in benefits to the economy of Puerto Rico and worker conditions.

#### ANALYSIS OF THE BILL

As part of the evaluation of this Commission to S.B. 919, three (3) public hearings were held, on May 9, 15, and 30, 2018. In said hearings, the following appeared:

- Mr. Edwin Irizarry Mora, Economy Professor from the University of Puerto Rico, Mayaguez Campus, whom appeared on his own behalf and in representation of Attorney Rubén Berrios, President of the Puerto Rican Independence Party (PRIP);
- Mr. Sergio Marxuach, Public Policy Director of the New Economy Center;
- Mr. Ramón Ponte, President of the Puerto Rico CPA Association;
- Attorney Héctor Hernández Soto, Ex-Secretary of the Labor Department;
- Attorney Ruy Delgado Zayas, Ex-Secretary of the Labor Department;
- Attorney Alicia Lamboy Mombille, President of the Puerto Rico Chamber of Commerce (CCPR);
- Attorney Héctor Ferrer, President of the Popular Democratic Party (PDP);
- Mr. Federico Torres Montalvo, President of the *Coordinadora Unitaria de Trabajadores del Estado*;

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- Mr. Pedro Irene Maymí, President of the *Central Puertorriqueña de Trabajadores* (CPT) and the *Unión Independiente Auténtica* from the Puerto Rico Aqueduct and Sewer Authority (UIA);
- Mr. Victor Villalba Rodríguez, President of the Casino Union;
- Mr. José Rodríguez Báez, President of the *Federación de Trabajadores de Puerto Rico* (FTPR) and Mrs. Annette González, President of *Servidores Públicos Unidos de Puerto Rico*, both accompanied by Dr. Iram Ramírez from Office and Professional Employees International Union (OPEIU);
- Mr. Juan Cortés Valle, Secretary/Treasure of the *Federación Central de Trabajadores*; accompanied by Attorney Genoveva Valentín Soto, Advisor for *Servidores Públicos Unidos de Puerto Rico*;
- Mr. José Alverio Díaz, Executive Director of the Nursing and Health Employees Labor Unit;
- Attorney Natalia Colón Díaz, President of the Labor Relations Professionals Association of Puerto Rico.

It needs to be pointed out, that this Commission invited the President of the Financial Oversight Board, Mr. José Carrión III, to participate in the public hearing process. Unfortunately, he declined participating in the public hearing set for May 1, 2018. Likewise, he declined to provide an alternate date in which he would be available to defend the proposal of the FOAB contained in S.B. 919 and answer questions from Senators.

Likewise, the Commission received comments from the *Unión Independiente de Empleados Telefónicos de Puerto Rico* and SOMOS, a labor organization who represents employees in the private sector. Both entities stated their opposition to S.B. 919.

The first deponent was the Director of Public Policy of the New Economy Center, **Mr. Sergio Marxuach**. Below, we summarize the most important points he stated in his presentation:

- The structural reforms focused to the supply side usually fail in achieving their objectives, especially in restricted economies on the demand side.

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- The FOAB should accept that the Fiscal Plan adopted is more an ideological manifesto than a fiscal recovery plan.
- The conclusion that the FOAB reached regarding an increase in labor participation that will bring an increase in income and reduce poverty is incorrect, since the participation rate can be increased through an increase in the number of persons seeking employment, whom until they find a job, will not receive income.
- The participants in the economy do not change their behavior if they believe the changes are temporary.
- Active labor market policies such as the increase in education spending, vocational programs, or retraining, measures to reduce the cost of childcare, women's assistance programs in job seeking, and others, have been measures that are more effective.
- The short and mid term effects of the elimination of labor protections are negatives in jurisdictions of economic recession and austerity such as Puerto Rico.
- The positive long term effect of the elimination of labor protections is minimum even in normal economic conditions.
- Labor protection reduction measures can create jobs at times of economic growth and terminations at times of economic austerity.
- The measures that make job termination easier on average do not have a significant impact on employment or on the macroeconomic variables. Their effects, if any, are produced long term (after 5 years).
- Making terminations easier can incentivize resignations and replacements, which disincentivizes investment in human capital, reduces productivity, and has a negative effect on the economy.

During the questions session by the President of this Commission to Mr. Marxuach, he explained that historically the expectation was to have a job for thirty (30) years and with marginal benefits. Now, the world trend is that persons have different

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jobs, and where the challenge lies in having comparable marginal benefits. In addition, Marxuach stated that the Labor Reform bill is exactly what should not be done in Puerto Rico. Likewise, he stated that the colonial situation of Puerto Rico affects the economic problems we are going through. That is why he did not recommend the passing of the bill.

Another of the presentations that served to greatly enlighten the Commission was presented by economist **Edwin Irizarry Mora**. From his appearance, we highlight the following points:

- S.B. 919 discriminates against the working class of twenty five (25) years old or less by exempting them from the wage increase without taking into consideration factors such as their participation rate in the workforce, educational preparation level, among others.
- The labor participation rate does not increase with the impoverishing of workers, rather with the increase of investment, which increases the possibilities of employment. The investment, in turn, depends on the expectations of greater sales and benefits for the business sector.
- The labor participation rate of Puerto Ricans in the productive age is around 55% (i.e., 15% over the participation rate in Puerto Rico.)
- Even in periods of great investment, before the recession of the mid of the 1970's decade, the labor participation rate has not surpassed 48%.
- The reduction of sick and vacation leave will generate several losses to the economy, among those: (i) reduction in the demand in local tourism; (ii) increase in the cost of childcare; (iii) increase in the real loss of income when having to miss work to tend the family or child health problems; among others.
- The recession that Puerto Rico is going through since April 2006 has implied a drop in the real personal consumption spending, which has led to a reduction in the production of goods and services and, therefore, capital investment.
- The findings of all the field investigations confirm that relaxed workers, with emotional stimuli, identified with the goals of the employer, are more productive.
- The theory that when lowering the costs of doing business investment and production are increased, goes against the historical current of the countries with greater economic growth, stability, and increase in the levels of the lives of their citizens.
- The labor laws are not incentives for the creation of jobs, nor they intend to create more or less jobs, because they are not designed for those goals. Labor laws act to organize human relations between employer and the employee, because it is understood that the first has the economic power and the second lacks it.
- Competitiveness is not reached sponsoring programs and strategies that lead to a greater level in company profits at the cost of less labor rights. For the effectiveness

of this competitiveness a perfect combination is needed between some flexible policies in the labor market and the rights of workers.

- An employer does not hire an employee only for its cost, rather for their productivity, which shall surpass their labor costs. Thus, if we eliminate the group of labor laws, the employer does not necessarily employ more persons if they are not essential for the production of the company.
- 74% of external investment in United States is destined for rich countries with high levels of wages and labor benefits, so the labor laws by themselves do not promote competitiveness, or company jobs, rather the productivity of workers, of innovator entrepreneur capital, technological advances, among other factors widely acknowledged in the international literature on the subject.
- If competitiveness wants to be increased in Puerto Rico, it is not an issue of low wages or less benefits, rather increasing productivity of our workforce. This is achieved through an aggressive effort to retrain the unemployed workforce and those outside the working group, with useful tools for the current labor market.

During the visit, Dr. Irrizary Mora agreed that the colonial situation of Puerto Rico affects the economic problems we are going through. In addition, he stated that he has never studied a case of a colony, be it in its classical or neoclassical definition, that has been prosperous, since its duty is to benefit the metropolis. Due to the aforementioned grounds he also did not endorse the passing of the bill.

In turn, the **Puerto Rico CPA Association**, represented through its President, Ramón Ponte, highlighted that his organization acknowledges that Puerto Rico is going through low labor participation and high unemployment. He stated that the Labor Reform proposal must be seen in a framework of proposals included in the Fiscal Plan, which have the objective of being a disincentive for emigration, incentivize work, and attract formal employment for those who work in the underground economy.

He pointed out that it is important to recognize that a great part of the workforce does not benefit from the labor protections now granted by law. The President of the Puerto Rico CPA Association indicated that he is concerned that in during what Puerto Rico is going through that the proposed reduction of benefits in this bill stimulate emigration.

The Puerto Rico CPA Association stated that an incremental increase in the minimum wage tied to labor participation metrics and the exclusion of the PyMES could be a reasonable measure to tend to the concerns of companies regarding the increase of operational costs.

Regarding Act No. 80, *supra*, they believe it that it merits amendments to give greater clarity to the events and circumstances that should be considered as just cause for

termination with the object of providing greater justice between the employer and the employee in cases of termination.

Finally, he listed a series of recommendations that were made in 2016 to the then candidates for Governor:

- Reestablishing an *Earned Income Credit* for low income workers.
- Establish requirements to qualify for Government aid and subsidies.
- Reform the labor laws to incentivize the creation of jobs and encourage labor participation:
  - Modify the application of benefits to incentivize jobs for young people, including reexamining minimum wage for them.
  - Establish an evaluation system and *pay for performance* in the Government.
  - Establish grace periods in which new businesses are exempt from certain requirements.
  - Extend the probationary period.

The President of the Puerto Rican CPA Association remembered that less than a year ago a Labor Reform was passed and that it is contrary to the best practices of public administration to redraft laws and launch reforms without granting sufficient time for the previous laws to reach its effectiveness. Like the other deponents, the Association recommended not to pass P.S. 919.

**Attorney Héctor Hernández**, Ex-Secretary of the Human Resources and Labor Department, highlighted that the reform proposed by the bill would leave workers defenseless at moments they should be protected. He stated that the elimination of the Christmas Bonus would impact over 760,000 employees of the private sector.

In turn, Attorney Hernández stated that it is unlikely that the goals are met of increased labor participation established as conditions to increase minimum wage, since what is proposed in the bill disincentives the worker from joining the workforce. In addition, he reiterated that the elimination of the Christmas Bonus also affects businesses, because the incentive directly impacts their revenues during the Christmas time. He stressed that the reduction of vacation and sick leave benefits puts private sector employees at a disadvantage in comparison with the government employees.

Last, he highlighted that the elimination of Act No. 80, *supra*, will cause the increase in damages complaints in the court of employees who are terminated.

In turn, the also Ex-Secretary of Labor, **Ruy Delgado Zayas**, stated that the only jurisdictions in the United States with protection laws on unfair termination are: Puerto Rico, the Virgin Islands, and Montana. He made the contrast of the changes that are attempted on the Island with the experience of the state of Montana, where there is less

unemployment and they have the highest labor participation rate of the Nation. On the other hand, states like Florida and California do not have protection laws and the percentage of unemployed persons is similar to Puerto Rico.

Attorney Delgado stated that the countries that have recently been successfully in attracting foreign investment stand out because they make it easier to establish new businesses, eliminating unnecessary requirements, and providing efficient services. He concluded that model from the 40's cannot be continued. In his opinion, the small and medium businesses have to be incentivized because they are the ones who create jobs. In that sense, he recommended not to pass the bill.

The Chamber of Commerce stated that during the year 2016, it presented to the then candidates for Governor several proposals on the employment environment, of which some were accepted in Act 4-2017, known as the *Transformation and Flexibility Act*.

Regarding minimum wage, The Chamber of Commerce suggested that a space be open to allow the private sector and the economy to grow and self-regulate. They stated, in turn, that before legislating on the subject, they make a study. On Act No. 80, *supra*, they support a revision of the law that includes probationary periods of one year, the elimination of the presumption that the employer always violates the law, and a maximum that does not beyond six (6) months wages in case of termination. They stated that any study that the Fiscal Oversight Board has on the matter is shared and made public before continuing with the legislative process.

On vacation and sick leave accrual, they questioned how it would affect investment in Puerto Rico and the possibilities of retaining employees. They reiterated that a study be done regarding the impact of what is proposed before continuing with the legislative process. In conclusion, the Chamber of Commerce stated that, even though they supported Act 4-2107[sic.], one has to be careful in making continuous changes to the regulations that could alter the business climate in Puerto Rico.

The President of the Popular Democratic Party (PDP), Héctor Ferrer, began by criticizing the Labor Reform of 2017, which, in his opinion, did not have the results expected. He questioned how, a year after said law was passed, the "rules of the game" are again tried to be changed on vacation and sick leave, when the impact of the Labor Reform is not even talked about.

The President of the PDP quoted official numbers of employees and how they contrast with the alleged promises to create jobs that would occur with the Labor Reform of 2017. He concluded that the legislative bill should be defeated.

Finally, all the worker organizations that appeared before the Commission rejected passing S.B. 919, because they understood that said legislative bill would be

detrimental to the working class and it defeats a long struggle for the union sector in benefit of the rights of the employees.

### CONCLUSIÓN

In sum, none of the experts or deponents that appeared before this Commission, be it through participation in the public hearing, or submitting written presentations, supported the passing of the bill. More so, from the data provided by the deponents, as well as the analysis of the information provided by the experts who appeared before the Commission, no evidence can be seen that the changes proposed in S.B. 919 would result in benefits for the economy of Puerto Rico. In which case, what was presented before the Commission were scenarios where the opposite would occur.

Last, the Labor Reform Memorandum published by the FOB, in May 30, 2018, also does not provide empirical data that justifies the elimination or modification of the rights that the working class has today in Puerto Rico. As a matter of fact, the report itself quotes studies that conclude that reforms such as the ones proposed by the FOB and which are contained in S.B. 919, have not had a positive or significant impact in the economies where similar nature reforms have been implemented.

**WHEREFORE**, the Federal, Political, and Economy Relations Commission, after study and consideration, does not recommend passing S.B. 919

**Thomas Rivera Schatz**  
President  
Federal, Political,  
and Economy Relations Commission

[CERTIFIED TRANSLATION]

I, Carlos Laó Dávila, a Federally certified interpreter, number 03-052, hereby certify that the attached document is a true and exact translation of the original certified or translated by me

POM-289. A resolution adopted by the Senate of the State of Hawaii memorializing its support of the participation of Taiwan as an observer in the United Nations Framework Convention on Climate Change, International Civil Aviation Organization, World Health Organization, and International Criminal Police Organization; encouraging a U.S.-Taiwan bilateral trade agreement; and celebrating the State of Hawaii's twenty-fifth anniversary of sister-state relations with Taiwan; to the Committee on Foreign Relations.

#### SENATE RESOLUTION NO. 37

Whereas, as a global citizen, Taiwan upholds the universal values of peace, freedom, democracy, and human rights; and

Whereas, Taiwan is a committed provider of humanitarian aid; from malaria prevention programs in Africa, to agricultural projects in Latin America and the Caribbean; from medical missions in the South Pacific, to disaster relief in Asia; these are a few examples of how Taiwan has consistently strived to make a real difference throughout the world; and

Whereas, for years, Taiwan has actively engaged in climate change research, supported anti-terrorism cooperation, and worked with its partners to tackle transnational crime; and

Whereas, through its participation in its annual World Health Assembly since April of 2009, Taiwan has shared its renowned expertise in disease control and prevention; and

Whereas, Taiwan's meaningful participation in international bodies such as the World Health Organization, International Criminal Police Organization, United Nations Framework Convention on Climate Change, and International Civil Aviation Organization would make international mechanisms truly global; and

Whereas, Hawaii has a strong cultural, historical, and economic relationship with Taiwan since sister-state relations were established on December 19, 1993, and the bonds of true friendship and a steadfast trade partnership have strengthened over the past twenty-five years; and

Whereas, Taiwan is the tenth largest trading partner of the United States with more than \$65,000,000,000 in goods traded between the United States and Taiwan in 2016, and the United States is the leading country for foreign direct investment in Taiwan; and

Whereas, the deep economic relationship between the United States and Taiwan has created hundreds of thousands of jobs in the United States that rely on exports to Taiwan; now, therefore, be it

*Resolved*, By the Senate of the Twenty-ninth Legislature of the State of Hawaii, Regular Session of 2018, that this body joins the United States in endorsing the participation of Taiwan as an observer in the United Nations Framework Convention on Climate Change, International Civil Aviation Organization, World Health Organization, and International Criminal Police Organization; and

*Resolved*, That this body also joins the United States House of Representatives in encouraging the United States Trade Representative to commence negotiations to enter into a bilateral trade agreement with Taiwan; and

*Resolved*, That this body supports the State of Hawaii's twenty-fifth anniversary of sister-state relations with Taiwan; and

*Resolved*, That certified copies of this Resolution be transmitted to the President of the United States; President Pro Tempore of the United States Senate; Speaker of the United States House of Representatives; United States Secretary of State; members of Hawaii's congressional delegation; Governor;

and Director of Business, Economic Development, and Tourism.

POM-290. A resolution adopted by the Senate of the State of Hawaii urging the United States Congress to make permanent the authority of the Native Hawaiian Health Care Improvement Act, with all the funding resources necessary to effect this policy; to the Committee on Indian Affairs.

#### SENATE RESOLUTION NO. 44

Whereas, the Native Hawaiian Health Care Improvement Act, originally enacted as the Native Hawaiian Health Care Act of 1988, and codified under title 42 United States Code chapter 122, states in section 11701 in pertinent part:

“(17) The authority of the Congress under the United States Constitution to legislate in matters affecting the aboriginal or indigenous peoples of the United States includes the authority to legislate in matters affecting the native peoples of Alaska and Hawaii.

(18) In furtherance of the trust responsibility for the betterment of the conditions of Native Hawaiians, the United States has established a program for the provision of comprehensive health promotion and disease prevention services to maintain and improve the health status of the Hawaiian people.”; and

Whereas, title 42 United States Code section 11702 states, in pertinent part, as follows:

“The Congress hereby declares that it is the policy of the United States in fulfillment of its special responsibilities and legal obligations to the indigenous people of Hawaii resulting from the unique and historical relationship between the United States and the Government of the indigenous people of Hawaii—

(1) to raise the health status of Native Hawaiians to the highest possible health level; and

(2) to provide existing Native Hawaiian health care programs with all resources necessary to effectuate this policy.” (emphasis added); and

Whereas, title 42 United States Code section 11705(h) authorizes appropriations necessary for fiscal years 1993 through 2019; and

Whereas, stakeholders face continued uncertainty regarding long-term funding beyond fiscal year 2019; and

Whereas, according to the United States Census Bureau's report, “The Native Hawaiian and Other Pacific Islander Population: 2010”, the nation's Native Hawaiian population increased by 31.4 percent between 2000 and 2010 with approximately fifty-five percent of that population living in Hawaii, and the American Community Survey produced an estimate of approximately 568,000 Native Hawaiians nationwide in 2015; and

Whereas, Act 42, Session Laws of Hawaii 2003, codified as section 10-18, Hawaii Revised Statutes, established the Hui 'Imi Advisory Council within the Office of Hawaiian Affairs; and

Whereas, the Department of Health published a report in 2011, entitled “Chronic Disease Disparities Report 2011: Social Determinants”, which found that chronic diseases—such as heart disease, cancer, stroke, diabetes, and chronic lower respiratory diseases are the most prevalent, most disabling, and most costly of all diseases; and

Whereas, the Department of Native Hawaiian Health of the John A. Burns School of Medicine at the University of Hawaii at Manoa published a report in 2013, entitled “Assessment and Priorities for Health and Well-Being in Native Hawaiians and other Pacific Peoples”, which found that Hawaii's Native Hawaiian population had a lower life expectancy than other populations and had

higher rates of death from heart disease, cancer, stroke, diabetes, and injuries compared to the State's overall population; and half of Native Hawaiian and Pacific Islanders report being obese; and

Whereas, social determinants of health and other factors contribute to the continued health disparities that affect the Native Hawaiian population; and

Whereas, while Hawaii and the country in general have made strides toward improving the health of Native Hawaiians, longterm federal funding for necessary health programs and services remains at risk; and

Whereas, the Indian Health Care Improvement Act is intended to provide descendants of the indigenous people of the continental United States assistance with health services; and

Whereas, section 16800 of the Indian Health Care Improvement Act (title 25 United States Code chapter 18) provides for permanent funding of the Act beginning in fiscal year 2010 and each fiscal year thereafter, to remain available until expended; and

Whereas, Native Hawaiians should have the same assurance given to other indigenous people in the United States regarding federal funding for health programs and services: Now, therefore, be it

*Resolved*, by the Senate of the Twenty-ninth Legislature of the State of Hawaii, Regular Session of 2018, That the United States Congress is requested to make permanent the authority of the Native Hawaiian Health Care Improvement Act, with all the funding resources necessary to effect this policy; and be it further

*Resolved*, That certified copies of this Resolution be transmitted to the President Pro Tempore of the United States Senate, Speaker of the House of Representatives of the United States Congress, Majority Leader of the United States Senate, Majority Leader of the United States House of Representatives, members of Hawaii's congressional delegation, United States Secretary of Health and Human Services, Governor of the State of Hawaii, Chairperson of the Board of Trustees of the Office of Hawaiian Affairs, President of the University of Hawaii System, Director of Health, Mayor of each county in the State of Hawaii, President of the Board of Directors of Papa Ola Lokahi, and Executive Director of Papa Ola Lokahi, who in turn is requested to transmit copies of this measure to the Chair of the Board of each Native Hawaiian health care system, as defined in the Native Hawaiian Health Care Improvement Act.

POM-291. A resolution adopted by the Senate of the State of Hawaii urging the United States Congress to pass legislation to clarify the status of migrants under the Compacts of Free Association for purposes of the Real ID Act of 2005 to promote fairness and equality under the law, and urging the United States Citizenship and Immigration Services to delineate Compact of Free Association status as a specific category in the Systematic Alien Verification for Entitlements System; to the Committee on the Judiciary.

#### SENATE RESOLUTION NO. 92

Whereas, the Freely Associated States of the Republic of the Marshall Islands, Federated States of Micronesia, and Republic of Palau consist of a multitude of islands, languages, and cultures throughout the Micronesian regions of the Pacific Ocean; and

Whereas, the Freely Associated States were formerly the Trust Territory of the Pacific Islands, administered by the United States of America from 1947 to 1986, and, now as sovereign nations, continue to place their trust in the United States through the Compacts of Free Association; and

Whereas, the Compacts of Free Association between the Freely Associated States and

the United States of America recognize the historic sacrifices and contributions made by the citizens of the Freely Associated States for the interests and benefit of the United States of America, including the use of their island atolls for sixty-seven nuclear tests from 1946 to 1958, which subjected the Marshallese people to human radiation experiments without their knowledge or consent, as well as the United States military's occupation of the island atolls to ensure control of the Pacific; and

Whereas, under the Compacts of Free Association, the United States of America continues to exercise exclusive military jurisdiction over the lands and waters of the Freely Associated States and continues to use the atolls as part of the United States National Missile Defense Program's long-range intercontinental ballistic missile defense system; and

Whereas, decades of administration by the United States have failed to establish economic independence within the Freely Associated States, contributing to a lack of adequate agricultural, educational, and health infrastructure necessary for a self-sufficient society; and

Whereas, in addition to the aforementioned sacrifices, the sons and daughters of the Freely Associated States continue to lay down their lives in the interest of the United States, representing some of the highest levels of per-capita military personnel recruitment levels for the United States military, compared to any other jurisdiction; and

Whereas, the people of the Freely Associated States have also contributed greatly to Hawaii's understanding of the common cultural heritage and pride of all Pacific Islanders, such as traditional navigation techniques that were kept alive by the late "Papa" Mau Pailug; and

Whereas, since 1986, citizens of the Federated States of Micronesia and Republic of the Marshall Islands, and since 1994, citizens of the Republic of Palau have legally resided in Hawaii under the Compacts of Free Association with the United States of America; and

Whereas, about eighteen thousand migrants under the Compacts of Free Association live in Hawaii, where they work, attend school, raise families, create businesses, and make other significant contributions; however, they face social and institutional discrimination and are regularly ignored by federal law, which exacerbates their systemic exclusion from fair and equal treatment; and

Whereas, under the Compacts of Free Association, citizens from these nations may "establish residence as a nonimmigrant in the United States" and according to the United States Citizenship and Immigration Services, "they are granted an unlimited length of stay" for which they have no "end of stay" date listed in the legal documents that establish their legal residency; and

Whereas, migrants under the Compacts of Free Association typically enter the United States under 1-94 forms with the notation "D/S" to indicate that their "duration of stay" is unlimited, and they are, according to the United States Citizenship and Immigration Services, "authorized to remain in the U.S. as long as [they] maintain a valid status"; and

Whereas, unlike other recipients of the 1-94 form, migrants under the Compacts of Free Association are not required to provide additional documentation to justify their legal presence because they have the right to an unlimited length of stay; and

Whereas, migrants under the Compacts of Free Association abide by all standard requirements to obtain a driver's license or state identification card in Hawaii, including providing documentation for proof of identity and proof of residency; and

Whereas, the REAL ID Act of 2005, Pub. L. 109-13, 119 Stat. 302 (REAL ID Act), fails to consider individuals' status under the Compacts of Free Association and incorrectly refers to the long-defunct term "Trust Territory of the Pacific Islands", and migrant status under the Compacts of Free Association does not readily fit into any of the listed categories of the REAL ID Act; and

Whereas, because of this technical oversight in the REAL ID Act, migrants under the Compacts of Free Association are often wrongly subjected to an annual driver's license or state identification card renewal requirement that is typically reserved for state residents who are unable to prove their lawful presence; and

Whereas, the annual driver's license or state identification card renewal requirement is overly burdensome for thousands of valued and productive migrants under the Compacts of Free Association who legally reside in Hawaii and who rely on these forms of identification to obtain and maintain employment, education, housing, health care, and other essential resources; and

Whereas, the annual driver's license or state identification card renewal requirement for thousands of Hawaii residents wastes already burdened state and county resources during a time when motor vehicle licensing and permitting agencies report triple the number of driver's license renewals every month and renewal appointments that can take as long as one hour to complete; and

Whereas, the United States Citizenship and Immigration Services has the authority and capability to clarify status under the Compacts of Free Association through the Systematic Alien Verification for Entitlements system, which is the mechanism used to determine legal presence for purposes of the REAL ID Act; and

Whereas, the United States Citizenship and Immigration Services has clarified other federal procedures to include status under the Compacts of Free Association when such status has been overlooked, including the recently updated guidelines for 1-94 forms published by the agency that defines migrants under the Compacts of Free Association as "alien[s] authorized to work" and authorizes a "D/S" indicator in lieu of an end-of-stay date; now, therefore, be it

*Resolved*, By the Senate of the Twentieth Legislature of the State of Hawaii, Regular Session of 2018, that the United States Congress is urged to pass legislation to clarify the status of migrants under the Compacts of Free Association for purposes of the REAL ID Act of 2005, Pub. L. 109-13, 119 Stat. 302, to promote fairness and equality under the law; and be it further

*Resolved*, That the United States Citizenship and Immigration Services is urged to delineate Compact of Free Association status as a specific category in the Systematic Alien Verification for Entitlements system and to clarify that the "unlimited length of stay" of persons with that status is sufficient for the same renewal period as legal permanent residents and United States citizens for purposes of driver's license and identification renewals, and other entitlements and benefits that may otherwise require an "end date of stay" entry; and be it further

*Resolved*, That certified copies of this Resolution be transmitted to the President of the United States, President Pro Tempore of the United States Senate, Majority and Minority Leaders of the United States Senate, Speaker of the United States House of Representatives, Majority and Minority Leaders of the United States House of Representatives, each member of Hawaii's congressional delegation, United States Secretary of the Interior, United States Assistant Secretary for

Insular Areas, Director of the United States Citizenship and Immigration Services, Hawaii Field Office Director of the United States Citizenship and Immigration Services, Governor of the State of Hawaii, Attorney General of the State of Hawaii, Director of Transportation, Deputy Director of Highways of the Department of Transportation, mayor of each county, and director of each county department of motor vehicles.

## REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. HOEVEN, from the Committee on Indian Affairs, without amendment:

H.R. 1491. A bill to reaffirm the action of the Secretary of the Interior to take land into trust for the benefit of the Santa Ynez Band of Chumash Mission Indians, and for other purposes (Rept. No. 115-326).

## EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of nominations were submitted:

By Mr. INHOFE for Mr. MCCAIN for the Committee on Armed Services.

Air Force nomination of Maj. Gen. Richard W. Scobee, to be Lieutenant General.

Army nomination of Col. Anthony H. Adrian, to be Brigadier General.

Army nomination of Maj. Gen. Thomas S. James, Jr., to be Lieutenant General.

Army nomination of Maj. Gen. James M. Richardson, to be Lieutenant General.

Mr. INHOFE for Mr. MCCAIN. Mr. President, for the Committee on Armed Services I report favorably the following nomination lists which were printed in the RECORDS on the dates indicated, and ask unanimous consent, to save the expense of reprinting on the Executive Calendar that these nominations lie at the Secretary's desk for the information of Senators.

The PRESIDING OFFICER. Without objection, it is so ordered.

Air Force nominations beginning with La Rita S. Abel and ending with Jared K. Young, which nominations were received by the Senate and appeared in the Congressional Record on June 18, 2018.

Air Force nominations beginning with David A. Bargatzke and ending with Frank Yoon, which nominations were received by the Senate and appeared in the Congressional Record on June 18, 2018.

Air Force nominations beginning with Todd A. Bialowas and ending with Rosemary A. Citizen, which nominations were received by the Senate and appeared in the Congressional Record on August 16, 2018.

Air Force nomination of Jonathan W. Beich, to be Major.

Air Force nominations beginning with Roland W. Nash and ending with Kelly E. Miller, which nominations were received by the Senate and appeared in the Congressional Record on August 16, 2018.

Army nomination of Donald C. Carmichael, to be Lieutenant Colonel.

Army nomination of Adam R. Liberman, to be Colonel.

Army nominations beginning with Jeffrey A. Bruce and ending with Patrick A. Young, which nominations were received by the Senate and appeared in the Congressional Record on July 31, 2018.

Army nominations beginning with Tyler Q. Hemmerich and ending with Frederic M.